

1 Erin Ware

2 #1017483

3 PO Box 7000

4 Carson City NV
5 89402

6 United States District Court
7 District of Nevada

8 NAME, ERIN WARE

9 Plaintiff(s),

10 -vs-

11 NAME, M. Sullivan Et al

12 Defendant(s).

CASE NO.

3:22-cv-00037-ART-CSD

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16 COMES NOW, Erin Ware, in PRO PER and herein above respectfully

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18 Moves this Honorable Court for a Motion of objection to def's Motion
19 to deny Med. Rec'ds In Cell. F.R.L.P 12.13. LR 24(k)(1)(2)
20 ECP no. 50 -

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23 The above is made and based on the following Memorandum of Points and Authorities.

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26 Dated this 21 day July 2024.
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1. Motion of reply to defendants and NDOC representatives to provide full
2. medical file for in cell review per discovery.

LEGAL Analysis

1. The purpose of discovery provisions of (F.R.C.P.) rules is to eliminate the
5. elements of chance from litigation and assure a determination of (each)
6. controversy on the merits. Haines v. Kerner, 404 U.S. 519, 92 S. Ct. 594, 30 L. Ed.
7. 2d. 652 (1972)

Discussions:

1. Defendants, NDOC representatives rely on plaintiff to review his
2. medical file, fully aware that he is pro se, has no attorney to mail
1. those records to put up a defense in this case. In bad faith

Legal Arguments:

3. pursuant to chief medical Director Micheal Miner and Kenneth
4. Williams. Sec. 707.01, 14 medical records may be kept on the yard, i.e.
5. in cell pursuant to a court order. Revised 9/09/20) 707.01-707.02 NRS
6. 49.245, 209.385. Plaintiff, as a pro se litigant urges this court
7. that he has a right to possess the material records secured
8. and withheld by the D.A.G. and defendants at NNCC
9. To duly discover "all true facts essential to all material claims
0. herein suit to properly be able to defend his 8th amendment claims
1. The in cell review of plaintiff's medical ~~file~~ orders, medical records
2. progress notes of various physicians are vital for the plaintiffs
3. preparedness for trial.) 44-1d@ 2:19-cv-00512-PFB-BNW ECF No 72
4. Plaintiff, seeks his entire medical records for review in his cell;
5. progress notes, consultations, orders, prescriptions, hospital dates and
6. hospital discharge summaries. (2021-2024) All electronic notes,
27. records and discrepancies noted. Plaintiff, asserts that the
28. review of his medical file is vitally important, even critical to

presenting his defense of his claims. Plaintiff asserts that the review would be in the best interest of justice, and without review of his files to plead his defense would constitute an miscarriage of justice and greatly prejudice his defense and allow the ~~continuance~~ continuance of violation of his 8th amendment. The court should consider the totality of the circumstances weighing the value of the ~~circumstances~~ material medical records sought, against defendants burden of providing them. A mere showing by defendants that the discovery may involve some inconvenience or expenses, does not suffice to establish good cause under rule 26.1d B 2011 U.S. dist. Lexis 68614, 2011 WL5854714 (D. Nev. 2011)

Discussion:

Defendants and ndoc representatives would claim that plaintiff records will be unsafe or compromised due to in cell. But the legal file of records are issued in a legal folder, which plaintiff can put in his legal boxes. Unit have quiet rooms designated for study, and legal work.

Conclusion:

Plaintiff asserts that this motion is made in good faith and prays this Court grant relief, to provide medical records in plaintiff's cell to properly prepare for trial

AFFIRMATION PURSUANT TO NRS 239B.030

I, Erin Ware, NDOC# 1017483,

CERTIFY THAT I AM THE UNDERSIGNED INDIVIDUAL AND THAT THE
ATTACHED DOCUMENT ENTITLED Motion of objection
to defendants Motion to Reversen med file in Cell,

DOES NOT CONTAIN THE SOCIAL SECURITY NUMBER OF ANY
PERSONS, UNDER THE PAINS AND PENALTIES OF PERJURY.

DATED THIS 21 DAY OF July, 2024.

SIGNATURE: 

INMATE PRINTED NAME: Erin Ware

INMATE NDOC # 1017483

INMATE ADDRESS: ELY STATE PRISON
P. O. BOX 1989
ELY, NV 89301